PATENT APPLICATION
Mo6411
LeA 34,261

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF	
OTTO SCHALLNER ET AL	GROUP NO.: 1652
	EXAMINER: C. L. FRONDA
SERIAL NUMBER: 09/897,233	RESPONSE TO PAPER NO. 4
FILED: JULY 2, 2001	
TITLE: METHOD OF FINDING PROTOPORPHYRINOGEN OXIDASE INHIBITORS	

COMMUNICATION IN RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This Communication is in response to the Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (the "Notice"). The Notice was dated September 26, 2002 and set a one month period for response, bringing a response to be due on or before October 26, 2002. A one month petition for extension of time to respond to the Notice and fee by way of authorization to charge Deposit Account No. 13-3848 is being filed concurrently herewith, bringing a response to be due on or before November 26, 2002.

I hereby certify that this correspondence is being deposited

Name of applicant, assignee or Registered Representative

REMARKS

The Notice states that this application fails to comply with the requirements of 37 C.F.R. Section 1.821-1.825, adding that Applicants must provide:

1. an initial computer readable form ("CRF") copy of the Sequence Listing,
2. an initial paper copy of the same,
3. an amendment directing its entry into the specification, and
4. a statement that the content of the paper and CRF copies are the same and that no new matter is included.

Applicants respectfully respond by saying that this Notice has apparently been issued in error by the U.S. Patent Office. This case does not contain a nucleotide sequence and/or amino acid sequence disclosures to which 37 C.F.R. Section 1.821-1.825 would apply.

The present invention is directed to a method for finding substances which interact with the enzyme protoporphyrinogen oxidase ("PPO") or assaying whether a substance interacts with PPO. The method generally calls for preparing a mixture which comprises PPO, a substance capable of interacting with PPO which fluoresces, and, in the method for finding substances which interact with PPO a substance to be tested. Upon irradiation, and measurement of the fluorescence, a decreasing or increasing fluorescence indicates whether the substance interacts with the PPO.

This case is pure chemistry. Other than the reference to PPO as the material for which interaction is measured, there is no claim to PPO, nor is there any nucleotide sequence and/or amino acid sequence in the entire disclosure. No sequence disclosure is required for enablement of the present invention. In fact, Example 4 was carried out by using a PPO-containing crude protein extract rather than using recombinantly produced PPO.

Therefore, Applicants respectfully assert that no sequence listing is needed in this case. If upon reviewing this Communication, the Patent Office remains

atent office to point out in a subsequent notice, with greater particularity, what

sequence listing is needed and why it is needed. The Examiner is also invited to call the undersigned to discuss that matter before issuing another Notice, if that might help to resolve the matter.

Applicants therefore request that this application be passed on for examination of the claims.

Respectfully submitted,

By _____
Raymond J. Harmuth
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/jme/RJH/RH0073

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,233	07/02/2001	Otto Schallner	Mo-6411/LeA 34,261	8201

157 7590 09/26/2002

DV

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DOCKETED
BY RT 10/2/02
DATE 10/26/02 Response (1mo)
APPROVED

EXAMINER
FRONDA, CHRISTIAN L

ART UNIT	PAPER NUMBER
1652	

DATE MAILED: 09/26/2002

4

(Failure to Comply w/Sequence Listing)

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Please find below and/or attached an Office communication concerning this application or proceeding.

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PTO-90C (Rev. 07-01)

UNITED STATES DEPARTMENT OF COMMERCE
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Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/897,233	07/02/2001	Schallner et al.	Mo-6411/LeA 34,261

EXAMINER	
Christian Fronda	
ART UNIT	PAPER NUMBER
1652	4

Please find below a communication from the EXAMINER in charge of this application

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

APPLICANT IS GIVEN A ONE MONTH EXTENDABLE PERIOD WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 CFR 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Any inquiry concerning this communication should be directed to Examiner Christian Fronda, Art Unit 1652, whose telephone number is (703)305-1252.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703)308-0196.

Christian L. Fronda

Christian L. Fronda
Patent Examiner
Technology Center 1600
Art Unit 1652

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [X] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- [ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [ ] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: _____

Applicant Must Provide:

- [X] An initial computer readable form (CRF) copy of the "Sequence Listing".
- [X] An initial paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
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PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY